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Remarks

Claims 10 through 30, 32 and 33 remain pending in the application. Claims 1 through 9 and 31 are canceled.

The applicant hereby affirms the provisional election without traverse to prosecute the invention of Group II made 25 September 2006 by K. David Crockett.

The Examiner has provisionally rejected claims 10 through 33 under the judicially created doctrine of nonstatutory obviousness type double patenting. Upon receipt of a notice of allowance for any of claims 10 through 33, appropriate terminal disclaimers for co-pending patent application numbers 10/686,186, 10/686,185, 10/686,188 and 10/686,184 will be filed to obviate this provisional rejection.

Claims 10 through 16 and 24 through 28 stand rejected as anticipated by Sherman et al. U.S. Patent 6,066,106 under the assertion that Sherman discloses a channel beam at 58 oriented laterally because it is located on the lateral side of the patient or extends laterally across the width. The Examiner asserts that the drive spool spans the channel beam and the belt is disposed within the channel.

Sherman fails to disclose the limitations found in claims 10 through 16 and 24 through 28 as amended. The Applicant claims a housing sized and dimensioned to support a patient's back and head and a channel beam mounted to the housing where the channel is beam laterally oriented with respect to the housing and defines a channel that extends laterally across the housing. The Sherman specification does not explicitly disclose

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a channel beam and it is clear from the Sherman figures that the motor of Sherman is never located beneath a patient. The motor and drive mechanism of Sherman is always laterally disposed relative to a patient.

The Examiner further asserts "it would appear that Sherman teaches a channel beam at 58." (See Figure 12a.) Assuming a channel beam were disclosed in Sherman as the Office Action asserts, the beam allegedly disclosed in Sherman is not coupled to a housing sized and dimensioned to support a patient's head and back and does not define a channel that extends laterally across the width housing as claimed by the Applicant in claims 10 through 16 and 24 through 28 as amended. As identified by Sherman, element 58 is an aperture or slot in a shield 57. Sherman states, "To protect the belt from rubbing on the motor box, the shield 57 with the long aperture 58 is fastened 40 to the housing so that the aperture lies over the drive spool, allowing the belt to pass through the aperture and into the drive spool slot, and return out of the housing." (Col 9, ll. 39-43).

The beam allegedly disclosed in Sherman is confined to the motor box 2 and the motor box is disposed in a manner parallel to centerline of the housing 13 in the Sherman device. (Figure 1 through 9.) Since Sherman does not disclose all the limitations found in claims 10 through 16 and 24 through 28, Sherman does not anticipate the claims. Therefore, withdrawal of the rejections is respectfully requested.

Claims 17 and 18 stand rejected as obvious over Sherman under the assertion that there appears to be no unobviousness to the specific dimensions claimed. The Office Action further

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asserts such dimensions appear to be the approximate dimensions for a band and spool for a chest compression device.

Sherman fails to meet the limitations found in claims 17 and 18. The Office Action states that a drive spool having a length of less than about 3 inches or a spool having a diameter of less than about 1 inch appear to be the approximate length of a band and spool for a chest compression device. The Examiner's conclusion that these features are merely a matter of engineering design choice is unfounded and improper as a substitute for the required analysis of patentability. There are no dimensions of this nature discussed in Sherman. These dimensions were obtained through extensive experimentation during the development of a lightweight automated CPR device and came only through extensive experimentation. There is nothing found in Sherman or extant in the art of CPR devices that suggests a spool three inches or less in length or having a diameter less than 1 inch is adequate to effectively tighten a belt to compress the chest during automated chest compression. Because Sherman fails to meet the limitations of the claims and the limitations are not extant in the art, Sherman does not render obvious claims 17 and 18.

Claims 19, 20, 32 and 33 stand rejected under 35 U.S.C. § 103 as obvious over Sherman in view of Dragan, Device for Securing Ribbons to Spools, U.S. Patent 3,802,638 (Apr. 9, 1974) under the assertion that Sherman teaches a slot for mounting the belt to the spool and that Dragan teaches an obvious equivalent alternative was of mounting the belt to the spool. The Office Action further asserts it would have been obvious to one of ordinary skill in the art to modify Sherman to use the spline and slot arrangement.

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The proposed combination of Sherman and Dragan fails to achieve the limitations found in claims 19, 20, 32 and 33. The limitations of claims 19, 20, 32 and 33 include a housing for supporting a patient's head and back wherein the housing comprises a channel beam mounted to the housing that is laterally oriented with respect to the housing and defines a channel that extends laterally across the housing width. Sherman does not disclose a channel that extends laterally across the housing width. Dragan is directed towards the attachment of ribbons to spools and not towards automated CPR devices. Like Sherman, Dragan also fails to disclose a housing sized and dimensioned to support a patient wherein the housing has a channel beam that defines a channel that extends laterally across the width housing. Since the proposed combination of Sherman and Dragan does not achieve the limitations found in claims 19, 20, 32 and 33, the proposed combination does not render obvious claims 19, 20, 32 and 33.

The Office Action rejects claims 29 and 30 as obvious over Sherman in view of Nichols, Bandage Roller, U.S. Patent Publication 2002/0088893 (Jul. 11, 2002) under the assertion that Sherman teaches all the limitations found in claims 29 and 30 except for vent slits. The Office Action further asserts Nichols teaches within the housing of a motor and driven spool that it may be necessary to provide vent slits in the housings and it would have been obvious to one of ordinary skill in the art to modify Sherman to include vent slits as taught by Nichols.

The proposed combination of Sherman and Nichols fails to meet the limitations found in claims 29 and 30. The limitations of claims 29 and 30 include a housing for supporting a patient's

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head and back wherein the housing comprises a channel beam mounted to the housing that is laterally oriented with respect to the housing and defines a channel that extends laterally across the width housing. As previously discussed, Sherman does not disclose a channel that extends laterally across the width housing. Nichols is directed towards a bandage roller. Nichols is not directed towards a CPR device and does not disclose a housing sized and dimensioned to support a patient wherein the housing has a channel beam that defines a channel that extends laterally across the width housing. Since the proposed combination of Sherman and Nichols does not achieve the limitations found in claims 29 and 30, the proposed combination of Sherman and claims 29 and 30 does not render obvious claims 29 and 30.

The Office Action rejects claim 10 as anticipated by Hwang, Cardiopulmonary Resuscitation Apparatus, PCT Patent Publication WO 03/024336 (Mar. 27, 2003) under the assertion that Hwang discloses all the limitations of the Applicant's claim 10 and teaches a channel beam in Figure 20.

Hwang does not disclose several limitations found in amended claim 10. The Applicant claims a housing for supporting a patient's head and back with a motor disposed in the housing. Hwang's motor is not disposed in its support side 128. (See Figures 9, 11 and 12.) The Applicant claims a drive spool operably attached to the motor wherein rotation of the drive spool tightens a belt to compress the chest of the patient. Hwang does not tighten a belt to compress the chest of the patient. Hwang uses a piston. Since Hwang fails to disclose several limitations found in the Applicant's claim 10, Hwang does not anticipate the Applicant's claim.

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Claim 31 stands rejected under 35 U.S.C. § 103 as obvious over Hwang in view of Lach, Resuscitation and Apparatus, U.S. Patent 4,770,164 (Sep. 13, 1988) under the assertion that the platform of Hwang supports the head and a distance down the length of the body, but it is not clear how far the length of the body or whether the platform can support the patient for transport. The Examiner asserts that Lach teaches its platform is approximately 30 inches by 36 inches and is adequate for transporting an adult patient. The Examiner alleges it would have been obvious to one of ordinary skill in the art to modify Hwang and size the platform to be able to transport the patient as taught by Lach so that the patient can be transported while maintaining the device on the patient so CPR can continue to be administered. Claim 31 is canceled which makes this rejection moot. Therefore, withdrawal of this rejection is requested.

Conclusion

This response has addressed all of the Examiner's grounds for rejection. The rejections based on prior art have been traversed. Reconsideration of the rejections and allowance of the claims is requested.

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By:


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